THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23670 of 2007

Dated: 06.11.2007

Between:

Pasam Vasantha Rao

… Petitioner

AND

The District Collector & District magistrate,
Krishna District, Machilipatnam
& others.

… Respondents

Counsel for the petitioner : Sri R. Radha Krishna Reddy

Counsel for the respondents : Assistant Government Pleader for Land Acquisition

THE HON'BLE SRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 23670 of 2007

ORDER:-

This writ petition is filed for a writ of mandamus to declare the land acquisition proceedings taken out by the respondents by issuing notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, 'the Act') by dispensing with enquiry under Section 5-A of the Act to the extent it relates to the land of the petitioner, as illegal and arbitrary.

The petitioner claims to be the owner of an extent of Ac.4-94 cents of lands in Rs.No.16/2 situated at Komallapudi Village, Kruthivennu Mandal, Krishna District, having purchased the same under registered sale deed. Respondent No.1 issued notification dated 04.05.2007 under Section 4(1) of the Act and the same was published on 10.05.2007 in the English newspaper. The petitioner mainly questioned these acquisition proceedings on the ground that dispensing with the enquiry under Section 5-A of the Act for the purpose of providing house sites to the weaker sections, is not warranted.

Heard the learned counsel for the petitioners and the learned Assistant Government Pleader for Land Acquisition.

The notification under Section 4(1) of the Act indicates that the purpose of acquisition is to provide house sites to the weaker

sections.

In my view, the State cannot bypass the normal statutory procedure under the provisions of the Act while exercising the power of eminent domain to forcibly take away the properties belonging to the citizens unless holding of enquiry does not brook delay. The procedure ordinarily to be followed for acquisition of lands is to hold an enquiry under Section 5-A of the Act after the publication of notification under Section 4(1) of the Act and it is only in emergent situations that this procedure is dispensed with by invoking urgency clause envisaged under Section 17 (4) of the Act.

The purpose of providing house sites to the weaker sections is not of that emergent in nature, which does not brook the delay of holding enquiry and warranting dispensing with of enquiry under Section 5-A of the Act. Therefore, the respondents are directed to hold enquiry under Section 5-A of the Act. Since it is not clear from material available on record whether Section 6 declaration is already published or not, if the declaration under Section 6 of the Act is published, the same stands set aside and the respondents shall, before proceeding further, hold an enquiry under Section 5-A of the Act by giving opportunity to the petitioner to put forth his objections and consider and dispose of the same.

Subject to the above, the writ petition is disposed of.

As a sequel to disposal of the writ petition, WPMP.No.30827 of 2007 filed by the petitioner for interim relief is disposed of as infructuous.

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C.V. NAGARJUNA REDDY, J

Date: 06.11.2007

Note:- Issue CC by tomorrow.
B/o.
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